

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

77-1197

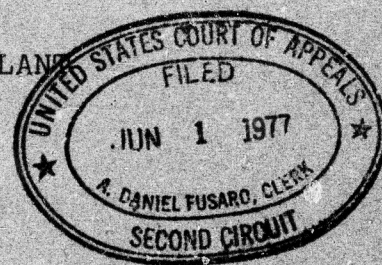
In The
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

DOCKET NO. 77-1197

UNITED STATES OF AMERICA,
APPELLEE,
-VS-
WILLIAM EUGENE ROBINSON,
APPELLANT.

On Appeal From The United States District Court
For The District of Connecticut

APPENDIX TO BRIEF FOR APPELLANT



ANDREW B. BOWMAN
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PAGINATION AS IN ORIGINAL COPY

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N-75-20

D. C. Form No. 100 Rev.

[illegible]

DATE
1975
3/10

PROCEEDINGS

The Grand Jury at New Haven returned a True Bill of Indictment charging violation of Title 18, U.S.C. 2113(a) (b) and (d), 2(a) and 2(b)--three counts---Ct. 1--taking by force, violence, and intimidation from person and presence of another, money belonging to and in care of bank, deposits of which were then insured by the F.D.I.C., Ct. 2--taking and carrying away with intent to steal money in excess of \$100.00, belonging to and in the care of said bank, Ct. 3-- in committing aforesaid offense did put in jeopardy the lives of others by use of dangerous weapons. Bench warrants may issued and be lodged as detainers for both defendants. Zampano, J. m-3/11/75.

3/11

ROBINSON & TATE: Bench warrants issued in duplicate together with a certified copy of the Indictment handed to U.S. Marshal for service.

3/18

ROBINSON: Motion to Modify Conditions of Release, filed by defendant.

3/20

ROBINSON: Motion to Modify Conditions of Release endorsed as follows: "Granted." copies mailed to counsel. Zampano, J. m-3/20/75.

PROCEEDINGS

DATE	PROCEEDINGS
1975	
3/24	ROBINSON: PLEA: Plea of Not Guilty entered to Counts 1, 2, & 3.
3/24	Case continued on same bond. Zampano, J. m-3/25/75.
3/24	Court Reporter's Notes of Proceedings held on 3/24/75, (Plea)
3/26	filed, Russell, R.
3/26	Appearance bond in the amount of \$5,000.00, Court allows deposit of 10%-500.00. with surety of Cora Robinson, filed and approved. Zampano, J. m-3/27/75.
3/31	ROBINSON: Marshal's return showing service, filed. Bench warrant
3/31	TATE: Certified copy of Magistrate's Papers, original warrant for arrest of defendant, waiver of removal hearing, Bail Reform Act Form No. 1, Magistrate's Warrant of Arrest, with complain and affidavit attached, together with Bail Reform Act Form II, (unexecuted), received from Clerk, Middle District of North Carolina. receipt acknowledged.
4/3	Court Reporter's Sound Recordings of Proceedings (Plea) held on March 24, 1975, filed. Russell, R.
4/9	Notice of Readiness, filed by government.
4/9	CJA Form 20 appointing Joseph Chiarelli to represent defendant, filed, Copies distributed.
4/10	U.S. Magistrate's Papers, filed. Record of Proceedings and Warrant of Removal on Indictment.
4/14	TATE: PLEA: Plea of Not guilty entered to Counts 1, 2, and 3 Case continued on same bond for trial. Zampano, J. m-4/14/75.
4/14	TATE: Motion of Reduction of Bond, filed by defendant.
4/16	TATE: Notice of Readiness, filed by government.
4/18	TATE: Government's Memorandum in Opposition to Defendant's Motion for Reduction of Bond, filed by Govt.
4/21	TATE: Memorandum in Support of the Defendants Motion for Reduction of bond, filed by defendant.
5/1	Court Reporter's Notes of Proceedings (Plea) held on 4/14/75, filed, Russell, R.
5/5	TATE: Hearing held on Deft. Tate's Motion for Reduction of Bond. Motion denied for reasons stated in open Court. Zampano, J. m-5/5/75
5/6	TATE: Motion for Reduction of Bond endorsed as follows: "Motion denied for reasons stated in open Court" Zampano, J. m-5/6/75.
5/6	ROBINSON: Motion to Suppress Evidence, filed by defendant.
5/8	ROBINSON: Motion to Suppress Photographic and eyewitness Identification, filed by deft.
5/9	ROBINSON: Motion to Strike Surplusage, filed by defendant.
5/13	ROBINSON: Government's Memorandum in Opposition to Defendant's Motion to Strike Surplusage, filed.
5/13	ROBINSON: U.S. Magistrate's Papers, filed: Record of Proceedings, Magistrate's Warrant of Arrest, Complaint, Affidavit of Clarence Smith, Magistrate's Temporary Commitment, Bail Reform Act Form No. 2, Order Specifying Methods and Conditions of Release.
5/16	Court Reporter's notes of proceedings held on May 5, 1975 (motion), filed. Russell, R.
6/5	Marshal's return showing service, filed. Subpoena to testify (1).
6/5	Hearing held on Deft. (Robinson) Motion to Suppress Evidence, Motion to Suppress Photographic and Eyewitness Identification and Motion to Strike Surplusage. 10:47-11:00 A.M. Hearing held on deft's waiver of Right to be present in Courtroom. Deft. Robinson advises he will be present.. 12:05 P.M. Suppression hearing commences. Deft. Tate orally joins in eyewitness identification motions. Motion to Strike Surplusage denied, without prejudice. Govt. Witness, sworn and testified. Govt.

DATE	PROCEEDINGS
6/5	Exhibits 1 & 2 filed. Deft. Ex. A, marked for ID. Govt. witness, Smith, resumes stand for continued cross examination. Deft. witness, sworn and testified. Motion to Suppress Evidence is denied for reasons stated in open Court. Joint Motion of Defendants for Motion to Suppress Photographic and eye witness Ident.. Deft. Tate filed written Motion to Suppress Photographic and eyewitness Ident. Agent Smith takes stand, still under oath and testifies. Govt. Ex. 3 marked for ID, Govt. Ex. #3, made full exhibit. Three Govt. witnesses sworn and testified. Govt. Ex. #4, marked for ID., Govt. Ex. #4 made full exhibit. Agent Smith returns to stand still under oath and testifies. Motion to Suppress Photographic and Eyewitness Ident, is denied for reasons stated in open Court. Newman, J. m-6/6/75.
6/6	ROBINSON: Motion to Strike Surplusage endorsed as follows: "Motion denied without prejudice to renewal at close of evidence at Trial. Newman, J. m/6/6/75. copies mailed to counsel or record.
6/6	ROBINSON: Motion to Suppress Photographic and Eyewitness Ident. endorsed as follows: "Motion Denied, after hearing, for reasons stated in open Court. Newman, J. m-6/6/75 copies mailed to counsel
6/6	ROBINSON: Motion to Suppress Evidence endorsed as follows: Motion Denied for reasons stated in open Court, after hearing. Newman, J. m-6/6/75. copies mailed to counsel
6/6	TATE: Motion to Suppress Photographic and Eyewitness Identification endorsed as follows: "Motion denied, after hearing, for reasons stated in open Court." Newman, J. m-6/6/75. copies mailed to counsel
6/9	ROBINSON: CJA 21 Form, authorizing Gerald Gale, Court Reporter to prepare transcripts of Suppression hearing, filed. Newman, J. copies distributed.
6/9	TATE & ROBINSON: On JON's Jury assignment List, Tate, Change of Plea, see separate minutes. Robinson, marked ready, jury impanelled. Newman, J. m-6/9/75.
6/9	TATE: CHANGE OF PLEA: Defendant request leave to change his plea of not guilty entered earlier to Count 2. Court grants request and order previous plea erased from the record. Defendant put to plea again and pleads guilty to Count 2. Case continued on same Bond for presentence report. Remaining counts to be dismissed at sentencing. Newman, J. m-6/9/75.
6/9	ROBINSON: JURY TRIAL COMMENCES: 12:43 P.M. 39 Jurors present and respond to roll call and Voir Dire oath administered. Counsel agree on selecting a panel of 14, with the last two names drawn as alternates. 12 jurors and 2 alternates impanelled and sworn. Case to begin on Tues. June 10, 1975 at 2:00 P.M.. Jury excused. 1:42 P.M. Court adjourned. Newman, J. m-6/10/75.
6/10	Court Reporter's Transcript of Proceedings (hearing on motions) held on June 5, 1975, filed. Gale, R.
6/10	CJA Form 21, approving the sum of \$83.75 payable to Court Reporter, Gerald Gale, filed and entered. Newman, J. copies distributed
6/10	ROBINSON: JURY TRIAL CONTINUES: 2:12 P.M. In the absence of the jury deft. request the remaining surveillance photos from the bank. Lat Student Intern Appearance Form, for Benjamin Cohen, filed by Govt. Govt. Exs. 1 thru 6 marked for I.D. Deft. moves for dismissal of Indictment for Govt's non compliance for evidence requested by deft. denied 2:35 P.M. Jury enters Courtroom, 12 jurors and 2 alternates present. Govt. witness sworn and testified. Govt. Ex. #7 marked for ID. Govt. witness Mondulick recalled to stand for further cross-examination. Govt. witness sworn and testified. 4:49 P.M. Jury excused until

DATE
1975

PROCEEDINGS

6/10 10:30 A.M. of June 11, 1975. In absence of the jury, Govt. advises that case has been open file case and that the other bank surveillance films are available in U.S. Attorney's Office for viewing. 4:50 P.M. Court adjourned. Newman, J. m-6/11/75

6/11 ROBINSON: JURY TRIAL CONTINUES: 12:50 P.M. Deft. Robinson's Request to Charge, filed. In absence of the jury Counsel discuss the possibility of showing the film to jury, by means of a projector and also any narration that will go along with the film. Counsel also discuss the admissibility of evidence to be offered by officer from Bridgeport P.D. Court will allow evidence of the officer. In the absence of the jury deft. moves to delete the name of deft. Tate from the Indictment. No ruling at this time. Govt. witness sworn and testified. Govt. Exs. 8 & 9, filed. Govt. witness sworn and testified. Govt. Exs. 1 thru 5 and 7 made full exhibits. Govt. Exs. 10 & 11 filed. Two Govt. Witness sworn and testified. Govt. Ex. #6, made full exhibit. Govt. Ex. 12, filed. Govt. Ex # 13, marked for ID, Govt. Ex. #13, made full exhibit. 4:23 P.M. Govt. Rests. Jury excused while arrangements are made to show film of bank robbery in Govt. Ex #11. Jury returns to Courtroom and Govt. Ex #11 is shown through projector for them to view. 4:58 P.M. Jury excused until 10:00 A.M. June 12, 1975. 4:59 P.M. Court adjourned; Newman, J. m-6/12/75.

6/12 ROBINSON: JURY TRIAL CONTINUES: 10:41 A.M. Court advises counsel that juror #4 Mrs. Sedor is unavailable today and that Mr. Johnson, Alt. #1 will be replacing her in the array. Jury enters Courtroom, 13 members present. 3 deft. witnesses sworn and testified. Jury Instructions, Govt. Requested Instructions No. 1, filed by Govt. Deft. sworn and testified. 2:32 P.M. Defense rests. Govt. witness, Clarence Smith, previously sworn is recalled to stand for rebuttal testimony. Govt. rests 2:46 P.M. In absence of the jury Court suggests possibility that deft. be viewed by the jury with cap similar to that worn in the bank photo. Deft. moves for judgment of acquittal-denied. Court and counsel discuss the charge to the jury. Indictment with only the deft, Robinson's name, filed. 3:39 P.M. Govt. summation. to 3:56 P.M. 3:56 P.M. - 4:35 P.M. Deft. summation. 4:35 P.M. to 4:49 P.M. Govt. closes. Court instructs the jury that it will deliver its charge at 10:00 A.M. June 13, 1975. 4:52 P.M. Jury excused and Court adjourned until 10:00 A.M. June 13, 1975.

6/12 Court Reporter's Notes of Proceedings (Motion) held on June 5, 1975 filed. Gale, R.

6/13 Marshal's return showing service, filed: Subpoena to Testify (2).

6/13 ROBINSON: JURY TRIAL CONTINUES: 10:03 A.M. In absence of the jury Court and counsel discuss setting up film in Govt. Ex. #11, in the jury room. Two supplementary instructions, filed by deft. Court advises that an Indictment has been typed up which has omitted the alias and deft. Tate's name. Counsel agree to have it go to the jury. Jury enters Courtroom 13 members present. Court excuses Alt. juror. 10:18 A.M. - 10:51 A.M. Court charges Jury. 10:51 Jury retires to jury room. Govt. and deft. take no exception to charge. By agreement of counsel all full exhibits and Indictment are brought to the jury room by the Clerk of the Court and deliberations begin. 3:25 P.M. A note is handed to Court from Jury. Court advises counsel that jury has encountered difficulty in reaching a verdict and will give the jury further instruction. Deft. moves for a mistrial-denied. 3:30 P.M. Jury re-enters Courtroom and further instruction is given. 3:35 Jury

DATE 1975	PROCEEDINGS
6/13	cont. returns to jury room for continued deliberations. No exceptions taken to supplemental charge. Court Ex. #1, marked. 5:24 P.M. Note from Jury advising that there is no real possibility of reaching verdict. Deft. moves for a mistrial. 5:26 P.M. Jury is returned to the Courtroom and questioned if they were in agreement with note and they answer in the affirmative. Motion for a Mistrial is granted. 5:31 P.M. Jury is excused subject to call. Court Ex. #2, marked. Deft. advises that he will be filing motion for Directed verdict. 5:32 Court adjourned.
6/16	TATE: Court Reporter's Transcript of Proceedings (COP) held on June 9, 1975, filed. Gale, R.
6/16	Court Reporter's Notes of Proceedings held on June 9, 1975, filed Gale, R. (C.O.P. and Jury Selection)
6/18	Court Reporter's Sound Recordings of Proceedings (C.O.P.) held on June 9, 1975, filed. Gale, R.
6/24	Motion for Return of Exhibits, filed by Government and endorsed as follows: Motion Granted. Newman, J. m-6/26/75. copies to counsel
6/24	Motion for Return of Exhibit No. 8, filed by Government and endorsed as follows: Motion Granted. Newman, J. m-6/26/75. copies sent to counsel
6/24	Receipt for Government exhibits 1 thru 13, filed by Government.
7/17	TATE: Appearance Bond in the amount of \$5,000, with surety of 10% deposit of \$500.00 of Eugene Tate, filed by deft. and approved Zampano, J. m-7/22/75.
7/22	ROBINSON: Letter from Federal Public Defender, Gregory B. Craig, Esq. requesting authorization for transcript, filed and endorsed as follows: "Request for Transcripts of oral argument in U.S. v. Robinson, N-75-20, is denied." Newman, J. m-7/22/75. copies mailed to Atty. Craig.
8/6	ROBINSON: Court Reporter's Notes of Proceedings held on June 13, 1975, filed. Gale, R. (Jury trial)
9/8	ROBINSON: Court Reporter's Transcripts of Proceedings (Trial) held on June 10, 11, 12 and 13, filed. Gale, R.
9/8	ROBINSON: Court Reporter's Notes of Proceedings (Trial) held on June 11, 1975, filed. Gale, R.
	ROBINSON: Court Reporter's Notes of Proceedings (Trial) held on June 10, 1975, filed. Gale, R.
	ROBINSON: Court Reporter's Notes of Proceedings (Trial) held on June 12, 1975, filed. Gale, R.
9/9	TATE: DISPOSITION: Deft. is committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of ten years. Zampano, J. m-9/10/75.
9/9	Order for Return of Bond, filed and entered. Zampano, J. m-9/10/74. Check #312 handed to Mr. Eugene Tate.
9/10	TATE: Motion to Dismiss Counts 1 and 3 of the Indictment, filed by the Government and So Ordered. Zampano, J. m-9/10/75 copies mailed to Atty. Pickerstein and Chiarelli.
9/12	TATE: U.S. Magistrate's Papers, filed: Record of Proceedings Complaint and Affidavit of Clarence Smith.
9/16	TATE: Judgment and Commitment, filed and entered. Zampano, J m-9/16/75. Two certified copies handed to U.S. Marshal
9/16	TATE: Court Reporter's Notes of Proceedings (Disp) held on Sept. 9, 1975, filed.

PROCEEDINGS

23 ROBINSON: On RCZ's Jury Assignment List: Ready #2 pending the availability of the Public Defender. Zampano, J. m-9/23/75.

24 ROBINSON: Marshal's return showing service, filed: Subpoena to testify (4) and Subpoena to Produce (1).

0/15 CJA Form 21 approving the amount of \$456.25 payable to Court Reporter, Gerald Gale, filed. Zampano, J. copies distributed.

/10m Marshal's return showing service, filed. Judgment and Commitment re: Tate.

2/3 Court Reporter's Sound Recordings of Proceedings held on Apr. 14, 1975, (Plea, TATE), filed. Russell, R.

filed. Court Reporter's Sound Recording of Proceedings held on 9/9/75, filed. Russell, R. (DISP. TATE)

7 ROBINSON: Marshal's return showing service, filed: 3 Subpoena to testify and 1 Subpoena to produce.

/6/ On RCZ's Jury Assignment List: Trial set for 1/20/76. Zampano, J. m-1/7/76

1/8 Application for Writ of Habeas Corpus Ad Testificandum (2), filed by Govt. and allowed. Zampano, J. m-1/9/76. Two certified copies of each handed to U.S. Marshal for service.

1/12 Marshal's return showing service, filed: 1 Subpoena to testify.

/19 Marshal's return showing service, filed: Subpoena to produce.

20 ROBINSON: JURY TRIAL COMMENCES: 1:30 P.M. 40 jurors present and oath on voir dire administered. Govt. 3 challenges, deft. 10 challenges. 13 jurors excused for cause. 12 jurors and 2 alts. impanelled and sworn. 3:00 P.M. remaining jurors excused subject to call. 3:10 P.M. jury excused until 10:30 A.M. of 1/27/76. In the absence of the jury the Court discusses testimony to come in with offer of proof by counsel for the govt. decision reserved. Deft. Motion to eliminate aliases denied w/o prejudice. This case adjourned until 1/22/76 at 10:30 A.M. to hear further matters before trial. 3:20 Court adjourned. Zampano, J. m-1/21/76/

20 On RCZ's Jury Assignment List: Ready, jury impanelled. Zampano, J. m-1/20/76.

1/22 Marshal's return showing service, filed: 3 Subpoenas to testify. re: ROBINSON.

1/22 Hearing held on Pre Trial matters. Counsel stipulate that Jencks Act material has been provided to defense counsel. Denies renews motions presented before the first trial. Counsel stipulate that transcript of the first trial will apply to this trial. Deft. renews Motion to Suppress. Court Exs. 1 thru 4 marked for ID. Decision reserve. Court adjourned at 12:45 P.M. Zampano, J. m-1/23/76.

1/27 ROBINSON: JURY TRIAL CONTINUES: Pending motions to suppress are discussed. Court Report is instructed to transcribe minutes of hearing before Judge Newman re: suppression of seized property. Motion to Suppress eyewitness and photographic ident is denied for reasons stated in open Court. Court and counsel agree that this jury panel should be told of previous trial. 3 Govt. witnesses sworn and testified. Govt. Exs. 1 thru 8, filed. In the absence of the jury defense moves for a continuance. Motion denied. In the absence of the jury Govt. witness sworn and testified on suppression. 4:10 P.M. Jury present. Govt. witness sworn and testified. 5:00 P.M. Court adjourned until 10:30 A.M. of 1/28/76. Court asks counsel to have their request to charge by the end of the day 1/28/76. Zampano, J. m-1/27/76. *11:15 A.M. 14 jurors present.

DATE	PROCEEDINGS
1976	
1/27	Marshal's return showing service, filed: Subpoena to testify.
1/28	ROBINSON: JURY TRIAL CONTINUES: Defendant's Motion for a Mistrial, filed. 10:55 A.M. Hearing on Motion for a Mistrial - decision reserved. 11:05 A.M. 12 jurors and 2 alternates present. Two Govt. witnesses sworn and testified. Govt. Ex. #10 and 11, filed. Ex. #10 (film) shown to jury. 12:40 P.M. Jury excused to 1/29/76 at 10:00 A.M. In the absence of the jury, court and counsel discuss requests to charge. One Govt. witness sworn and testified in the absence of the jury re investigative proceedings. Defendant's Request to Charge, filed. 1:05 P.M. Court adjourned to 1/29/76 at 10:00 A.M. Zampano, J. m-1/29/76.
1/29	ROBINSON: JURY TRIAL CONTINUES: Affidavit of Personal Prejudice, filed by deft. 12 jurors and 2 alts. present 10:10 A.M. 1 Govt. witness sworn and testified. Govt. Exs. 12 thru 14 filed. Govt. Rests 10:59 A.M. Deft.'s Motion that all counts be dismissed-denied. Deft.'s Motion that all witnesses be sequestered granted. 9 Deft. witnesses sworn and testified. Deft. sworn and testified. Govt. Ex. 15, filed. Stipulation, filed. Deft. Ex. A & B, filed. 4:45 P.M. jury excused until 10:00 A.M. of 1/30/76. 4:50 P.M. Court adjourned. Zampano, J. m-1/30/76.
1/30	ROBINSON: JURY TRIAL CONTINUES: In the absence of the jury the Court discusses testimony to be brought in through a Stipulation with offer of proof by counsel for deft. Deft. Motion for mistrial-denied. 11:19 A.M. 14 jurors present. Deft. previously sworn resumes stand. 2 Deft. witnesses sworn and testified. Deft. Ex. c thru J, filed. Govt. Ex 16 and 17, filed Govt. Ex 18, marked for ID. 12:28 P.M. Deft. rests. Govt. rebuttal witness sworn and testified 1 Govt. rebuttal witness previously sworn resumes stand and testified 2:38 P.M. Govt. rests. Deft. Motion for continuance-denied. Court Ex. 1, marked. Deft. renewssmotion under Rule 29-denied. 3:11 P.M. 3:30 P.M. Govt. opens. 3:30 to 4:28 P.M. Deft. 4:28 to 4:34 P.M. Govt. closes. 4:35 P. M. Court adjourned in the case until 9:45 A.M. of 2/2/76. Zampano, J. m-2/2/76.
2/3/	ROBINSON: Jury Trial Continues: 11:15 A.M. 14 jurors present. Court charge 11:16 A.M. to 12:07 P.M. Alternate jurors excused. 12:08 jury excused to jury room. Defense excepts to the charge. 12:17 P.M. Indictment and exhibits brought to jury room by agreement of counsel and deliberation begins. 2:32 Notes from jury. Court Exs. 2 & 3 marked for ID. 3:21 jury enters Courtroom, Court responds to the notes. 3:28 P.M. jury excused for further deliberation. 3:42 Court informed jury has reached a verdict. 3:49 Jury returns the following verdict COUNT 1-GUILTY, COUNT 2-GUILTY, COUNT 3-NOT GUILTY. Verdicts verified and ordered recorded by the Court. *3:54 jury excused. * jury polled at the request of the deft. and all answer in the affirmative. Govt. motion to remand the deft under \$100,00 bond. Court sets bond at \$35,000. with surety. 4:00 Court adjourned. Zampano, J. m-2/4/76.
2/6	Court Reporter's Notes of Proceedings held on Jan. 26, 27, 28, 29, and February 3, 1976, filed. Russell, R. (Jury Trial) six packages
2/9	Marshal's return showing service, filed: 3 Subpoenas to testify and 1 Subpoena to produce.
3/2	Marshal's return showing service, filed: Writ of H. C. ad Testificandum.
3/4	CJA Form 21 approving transcript for appeal purposes, filed. Zampano, J. copies distributed.

DATE	PROCEEDINGS
1976	
4/12	ROBINSON: Impr. 15 yrs. Deft.'s Motion to Reduce Bond is denied. Deft. advised of his right to appeal Deft. Motion to Appeal in Forma Pauperis is granted. Notice of Appeal filed by deft. Zampano, J. m-4/13/76.
4/14	Notice of Appeal is endorsed: Motion to Proceed on Appeal in Forma pauperis is granted. Zampano, J. m-4/14/76. copies mailed to counsel
4/15	Certified copies of docket entries and Notice of Appeal mailed to Clerk, U.S.C.A.
4/13	Court Reporter's Notes of Proceedings (DISP: ROBINSON) held on 4/12/76, filed., Russell, R.
4/15	Judgment and Commitment, filed and entered. Zampano, J. m-4/15/76
	Two certified copies handed to U.S. Marshal
4/13	Order for Return of Bond, filed and entered, Zampano, J. m-4/23/76. Check #390 issued and mailed to Rena Robinson, surety.
4/23	NOTE: Order Reducing Sentence, filed and entered. Ordered that paragraph Four of the Judgment of this Court dated Sept. 9, 1975, be amended so as to provide as follows: It is adjudged that the deft. is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of six years on Count Two. Zampano, J. m-4/23/76. copies mailed to Attys Pickerstein and Chiarelli.
4/27	Court Reporter's Sound Recording of Proceedings (DISP) held on 4/12/76, filed. Russell, R.
4/30	Record on Appeal sent U.S. Court of Appeals. Copies of Index and docket sent counsel.
5/3	Supplement to Record on Appeal sent U.S. Court of Appeals. Copies of Clerk's Certificate sent counsel.
5/6	Receipt of Record on Appeal and Supplement to Record on Appeal acknowledged by Clerk, U.S.C.A. and filed.
5/24	Court Reporter's Transcript of proceedings held before Zampano, J. on January 27, 1976 filed. Russell, R.
"	Court Reporter's Transcript of proceedings held before Zampano, J. on January 28, 1976 filed. Russell, R.
"	Court Reporter's Transcript of proceedings held before Zampano, J. on January 29, 1976 filed. Russell, R.
"	Court Reporter's Transcript of proceedings held before Zampano, J. on January 30, 1976 filed. Russell, R.
"	Court Reporter's Transcript of proceedings held before Zampano, J. on February 3, 1976 filed.
"	Court Reporter's Transcript of proceedings held before Zampano, J. on June 5, 1975 filed. Russell, R.
5/27	CJA Form 21 authorizing payment of \$1,341.00 to Gene Russell, Court Reporter, filed. Zampano, J. copies distributed.
6/1	Supplement to Record on Appeal sent U.S. Court of Appeals. Copies sent Attys. Pickerstein and Craig.
6/11	Receipt of Second Supplement to record on Appeal acknowledged by Clerk, U.S.C.A. and filed.
11/3	Notice of Readiness, filed by govt.
11/4	Application for Writ of H.C. Ad Prosequendum, filed by govt. and allowed, Zampano, J. m-11/4/76. Two cert. copies handed to U.S. Marshal.
11/29	Request of Fed. Pub. Def. on CJA Form 21 for transcript of final argument on first trial on 6/13/75, denied by the Court. Newman, J.

PROCEEDINGS

DATE	
1976	
11/30	Jury trial scheduled for Dec. 7, 1976, over indefinitely. Zampano, J. m-11/20/76.
12/9	Marshal return showing service, filed: Writ of H.C. ad Prosequendum.
" "	Deft's Motion to Modify Conditions of Release, filed by deft and endorsed: Denied for reasons stated in open Court. Zampano, J. m-12/9/76.
12/9	Hearing held on Deft's Motion to Modify Conditions of Release. Motion denied for the reasons stated in open Court. Zampano, J. m-12/9/76.
12/10	Notice of Appeal, filed by deft. Robinson re: Order Denying Motion to Modify Conditions of Release.
12/13	Certified copy of Notice of Appeal and docket entries mailed to Clerk, U.S.C.A.
12/15	Court Reporter's Transcript of Proceedings (Bail hearing) held on Dec. 9, 1976, filed. Russell, R.
12/16	Ruling on Motion to Modify Conditions of Release, filed and entered Zampano, J. m-12/17/76. copies mailed to counsel.
12/28	Third Supplement to Record on Appeals sent U.S.Ct. of Appeals. Copies of Index sent Mr. Dorsey and Bowman.
12/27	Copy of Order from the U.S.C.A. reversing the judgment of this Court and remanding the case to the District Court for further proceedings in accordance with the opinion of this Court. Fusaro, C. m-12/28/76. copies sent to U.S. Probation Office and U.S. Marshal.
12/30/	CJA Form 21 authorizing payment in the amount of \$2.50 to Eugene Russell, Court Reporter, filed. Zampano, J. copies distributed.
1977	
1/3	Motion to Recuse, and Affidavit of Personal Prejudice, filed by deft.
1/4	Record on Appeal and Supplements to Record on Appeal returned from the U.S.C.A. and receipt acknowledged.
" "	Application for Writ of H.C. Ad Testificandum, filed by govt. and allowed, Newman, J. m-1/4/77. Two cert. copies handed to U.S. Marshal.
1/6	Motion to Recuse endorsed: Motion granted. Case transferred to Chief Judge Clarie. Zampano, J. m-1/6/77 copies mailed to counsel.
1/6	File and Transcripts sent to Hartford Office.
1/14	Defendant's Motion to Modify Conditions of Release, filed. (Robinson)
1/19	Endorsement entered and filed on Motion to Modify Conditions of Release, "1/18/77. This case has been assigned for trial at Hartford on February 1, 1977. The defendant's motion to reduce bond is denied. So Ordered." (Clarie, J.) M.1-19-77. Copies sent to counsel.
1/17	Copy of Schedule of Hearing, filed.
1/18 m	JURY ASSG. LIST - Transferred to Chief Judge Clarie. (Zampano, J.)
1/20	Receipt for Govt. Exh. 10 and 11 returned to Clerk of the Court on 1/20/77, filed.
1/24	Application For Writ of Habeas Corpus Ad Testificandum with Order of Court thereon, filed. (Zampano, J.) M.1-25-77. Two attested copies handed US Marshal in New Haven.
1/28	Acknowledgment from USCA on Index to Third Supplement to Record on Appeal, filed. cts. 1 & 2
2/1	JURY TRIAL commences. 49 jurors respond to roll call. Panel sworn on Voir Dire. Defts. Proposed Voir Dire Questions, filed. Voir Dire of panel by Court. 6 jurors excused for cause. Panel of 28 jurors drawn. Challenges exercised. Panel of 12 drawn & two alternates sworn. Trial continued to Feb. 9 at 10:00 a.m. (Clarie, J.)

DATE
1977

PROCEEDINGS

2-4	Receipt for Govt. exh. #1 thru 17 and Deft. Exh. A thru J from Dick Maynard, filed.
2-9	Motion For Continuance, filed, with attached Affidavit of Robert Eaton Porter.
2-9	Court Reporter's notes of Proceedings held on February 1, 1977, filed in Hartford. (Sperber, R.)
2-9	JURY TRIAL commences. Atty. Bowman states he has filed Motion for Continuance for lack of a crucial witness. Jury of 14 report. Six Govt. witnesses sworn & testified. Govt. exh. 1-8, 10-13, 15A & 15C, filed. Govt. exh. 15 & 15B marked for identification. Def. exh.A., filed. Application For Bench Warrant filed with Affidavit of Robert Porter. Bench Warrant to issue. Court adjourned at 5:00 p.m. until tomorrow at 10:00 a.m. (Clarie, J.)
2-9	Bench Warrant issued and handed US Marshal.
2-10	JURY TRIAL continues. 14 jurors report. One Govt. witness previously sworn resumed stand & testified. One Govt. witness sworn & testified. Govt. rests at 11:06 a.m. Two witnesses previously sworn resumed stand and testified. 9 Def. witnesses sworn & testified. Govt. exh. 18 and 20, filed. Govt. exh. 9 and 19 marked for identification. Def. exh. B-D, filed. Attorney's Place Stipulation on the record. Defendant sworn & testified. Case adjourned until Tuesday, February 15, 1977 at 10:00 a.m. Court adjourned at 4:54 p.m. (Clarie, J.)
2-15	Defendant Robinson's Request to Charge, filed.
2-15	JURY TRIAL continues. 14 jurors report. One Def. witness sworn & testified. Govt. exh. 21 marked for identification. Def. rests at 11:00 a.m. Atty. Pickerstein places stipulation on the record. One Govt. witness sworn & testified. Govt. exh. 22A-22P marked for identification. Govt. exh. 22A, 22B, 22D, 22H, 22I, 22K now marked as full exhibits. One witness previously sworn resumed stand & testified. Govt. rests at 12:26 p.m. Atty. Bowman makes Motion For Judgment of Acquittal - Motion denied. Govt. summations from 1:47 p.m. to 2:11 p.m. Def. summations from 2:12 p.m. to 2:52 p.m. Govt. rebuttal from 2:53 p.m. to 3:01 p.m. Court charge from 3:14 p.m. to 3:53 p.m. Alternates excused with thanks of Court. Jury retires at 3:55 p.m. Govt. has no exceptions to charge. Atty. Bowman states his exceptions to charge. Charge to stand. Indictment and exhibits given to jury at 4:02 p.m. Jury recalled to Courtroom at 5:00 p.m. - and advised Court they wish to continue deliberations. Jury returns to Courtroom at 5:04 p.m. Jurors note marked as Court exh.A. Jury returns to Courtroom with verdict at 5:45 p.m. Verdict of guilty - (cts. Jury polled - verdict ordered received and recorded. Jury excused at 5:50 p.m. Govt. moves that same bond be continued. Def. to be incarcerated at Whalley Avenue. Court adjourned at 5:55 p.m. (Clarie, J.)
2-14	Marshal's executed return, filed. (Warrant For Arrest of Witness with Endorsement thereon, "2/14/77. Witness released on own recognizance at the request of counsel for defendant, on oral promise to appear in court tomorrow in accordance with the subpoena also served on him this late by the marshal." (Latimer, Mag.) M.2-16-77.)
2-22	Motion For New Trial and Memorandum in Support of Deft's. Motion For New Trial, filed.
2-24	Marshal's executed return, filed. (Appl. For Writ of H.C.)
12-10-76	Court Reporter's notes of proceedings held on December 9, 1976, filed in New Haven. (Russell, R.)
3/14	Disposition - Over one week. (Clarie, J.)
3/17	Govt's. Memorandum, in Opposition To Motion For New Trial, filed.

DATE 1977	PROCEEDINGS
3/21	DISPOSITION - ct.#1 - 15 yr . - Imposition of sentence suspended on ct. #2. Court advises deft. of right to appeal. Hearing on Motion For New Trial - Motion Denied. (Clarie, J.)
3/22	Judgment and Commitment Order, filed. (Clarie, J.) M.3-22-77. Two attested copies handed US Marshal and one attested copy handed US Probation Officer in Hartford.
3/22	Motion To Detain Defendant In The District of Connecticut Pending Appeal, filed.
3/23	Motion For Bail Pending Appeal, filed.
3/24	Endorsement entered and filed on Motion To Retain Defendant in the District of Connecticut Pending Appeal, "3/24/77 Motion granted; So ordered." (Clarie, J.) m-3/24/77
3/24	Endorsement entered and filed on Motion For Bail Pending Appeal, "3/24/77 Motion for bail pending appeal is denied; the overall circumstances and the information in the probation report indicates that an appeal bond should not be permitted. So ordered." (Clarie, J.) m-3/24/77 Copies of the above endorsements sent to Attys. Pickerstein and Bowman.
3/22	Marshal's unexecuted return, filed. (Magistrate's Warrant of Arrest)
3/24	Govt's. Memorandum in Opposition to Defendant's Motion For Bail Pending Appeal, filed.
3/24	Marshal's executed return, filed. (Appl. For Writ of H.C.)
3/21	Notice of Appeal, filed.
3/29	Certified copies of Notice of Appeal and Docket Entries mailed to USCA.
3/24	CJA 21 executed (Clarie, J.) authorizing copy of transcript.
3/31	3rd Supplement to Record on Appeal received from USCA and filed in New Haven.
4/7	Record on Appeal mailed to USCA. Copies of Index mailed to counsel of record.

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

U.S. DISTRICT COURT
NEW HAVEN, CONN.

UNITED STATES OF AMERICA :

V. :

CRIMINAL NO. N-75-20

WILLIAM EUGENE ROBINSON :
a/k/a WILLIE GENE ROBINSON :
a/k/a PONZO and :
DAVID JAMES TATE :

RECEIVED

MAR 18 1975

OFFICE OF THE FEDERAL
PUBLIC DEFENDER, N.H.

INDICTMENT

The Grand Jury Charges:

COUNT I

On or about the 18th day of February 1975, in the District of Connecticut, WILLIAM EUGENE ROBINSON, a/k/a Willie Gene Robinson, a/k/a Ponzo and DAVID JAMES TATE, by force and violence and by intimidation, did take from the person and presence of Retta Mondulick about \$2,034.00 in money, belonging to and in the care, custody, control, management and possession of the Connecticut National Bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation.

In violation of 18 U.S.C. 2113(a) and 2(a) and 2(b).

COUNT II

On or about the 18th day of February 1975, in the District of Connecticut, WILLIAM EUGENE ROBINSON, a/k/a Willie Gene Robinson, a/k/a Ponzo and DAVID JAMES TATE, did take and carry away, with intent to steal and purloin, from the Connecticut National Bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation, the sum of about \$2,034.00 belonging to and in the care, custody, control, management and possession of the said bank.

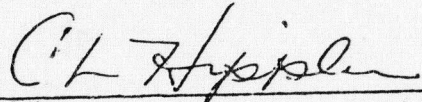
In violation of 18 U.S.C. 2113(b) and 2(a) and 2(b).

COUNT III

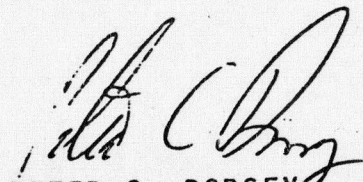
On or about the 18th day of February 1975, in the District of Connecticut, WILLIAM EUGENE ROBINSON, a/k/a Willie Gene Robinson, a/k/a Ponzo and DAVID JAMES TATE, by force and violence and by intimidation, did take from the person and presence of Retta Mondulick, about \$2,034.00 in money belonging to and in the care, custody, control, management and possession of the Connecticut National Bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and WILLIAM EUGENE ROBINSON, a/k/a Willie Gene Robinson, a/k/a Ponzo and DAVID JAMES TATE in committing the aforesaid offense did put in jeopardy the life of the said Retta Mondulick by means and use of a dangerous weapon, that is, a shotgun and a revolver.

In violation of 18 U.S.C. 2113(d) and 2(a) and 2(b).

A TRUE BILL



FOREMAN



PETER C. DORSEY
UNITED STATES ATTORNEY



BY: HAROLD JAMES PICKERSTEIN
CHIEF ASSISTANT UNITED STATES ATTORNEY

Hon. T. Emmet Clark, Ch. U.S.
Feb. 1, 1977; Hartford, Conn.
Speiser, R; Templeton, D.C.

Court opened at 10:00a

^{sd.}
Crim. N-75-20 ✓

U.S.A. v Robinson

H. J. Pickerstein

Peter Grabberger

Jury Trial Commences

49 Jurors answer^{roll}, per attached list

Panel sworn on Voir Dire

Def's Proposed Voir Dire Questions Filed

Voir Dire of panel by Court

#12 Frank Ceplenski - Excused for cause

#17 Florence DiMinno - " " "

#21 Thomas Duggan - " " "

#32 Lucille Hendricks - " " "

#35 Robert Jones - " " "

#51 Yvonne Taft - " " "

BEST COPY AVAILABLE

Panel of 28 Jurors drawn

1 #18 Dinielli	12 #16 Dick
2 #31 Hall	13 #15 Delaney
3 #34 Johnson	14 #38 Laylor
4 #30 Gruenberg	15 #14 Gnn
5 #29 Grohs	16 #48 Scheidel
6 #24 Faucher	17 #45 Rickards
7 #28 Golebiewski	18 #44 Rettig
8 #22 Ehrhardt	19 #50 Sparks
9 #8 Brazil	20 #47 Rood
10 #36 Kerr	21 #40 MacArdle
11 #9 Brouillard	22 #27 Firestone

Crim. N-75-20
Court

23 #49 Smith	26 #20 Driscoll
24 #10 Burke	27 #25 Feinstein
25 #43 Phair	28 #19 D'Onofrio

Challenges exercised per attached list

7
Jury of 12 drawn and seated

1 #8 Bentz Brazil	7 #48 Scheidel
2 #29 Grohs	8 #43 Phair
3 #14 Conn	9 #9 Brouillard
4 #28 Golebiewski	10 #24 Faucher
5 #49 Smith	11 #45 Rickards
6 #38 Lawlor	12 #19 D'Onofrio
Alt #1	#11 Bush
Alt #2	#46 Risley

Jury of 12 and 2 alternates sworn

Trial continued to Feb. 9 at 10:00 am

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

ORDER FOR CHALLENGES

(In criminal cases involving a felony)

UNITED STATES

DEFENDANT(S)

1. #15 Delaney

1. #16 Dick

2. #22 Ehrhardt

2. #18 Dimelli

3. #34 Johnson

3. #40 MacArdo

4. #36 Kerr

4. #47 Reed

5. #27 Firestone

5. #50 Sparks

6. #44 Rettig

6. #31 Hall

7. #30 Crueenberg

8. #25 Feinstein

9. #10 Burke

10. #20 Driscoll


For Alternates

1. #5 Beechinor


1. #13 Champigny

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

1/6/77

Crim. #76-108
USA v West

JURY

1. #2 Aliano
2. #32 Jensen
3. #8 Berkowitz
4. #51 Shepherd
5. #55 Trosky
6. #34 Jones

7. #57 West
8. #23 Ferguson
9. #13 Delaney
10. #35 Kerr
11. #4 Bartosewicz
12. #9 Brouillard

1 THE FOLLOWING IS AN EXCERPT OF PROCEEDINGS
2 ON FEBRUARY 1, 1977, DURING THE SELECTION OF THE
3 JURY:

4 THE COURT: Have counsel exercised all their
5 challenges, to which they are entitled, and which
6 they choose to exercise?

7 MR. PICKERSTEIN: Yes, your Honor.

8 MR. GOLDBERGER: Yes, your Honor.

9 I'd like to approach the Bench.

10 (The following transpired at the Bench:)

11 MR. GOLDBERGER: Your Honor, I want to place
12 on the record that there is only one black person
13 on this jury panel, and the Government exercised
14 a preemptory challenge against Mrs. Ophelia Kerr,
15 Number 36 on the final list.

16 The mandate of the Court of Appeals in the
17 Robinson mandamus matter against Judge Newman has
18 not come down. I believe Judge Newman's ruling
19 is still in effect. And the Court should give the
20 Government an opportunity to state a non-racial
21 challenge, if it has one.

22 THE COURT: Do you care to respond?

23 MR. PICKERSTEIN: Your Honor, the Government
24 does not care to state a non-racial reason. I
25 don't think that we are obligated to.

1 I realize the mandate of the Court of Appeals
2 is probably not final, nonetheless, in view of the
3 stance we have taken previously, we will not state
4 a non-racial reason.

5 We will state no reason for the exercise of
6 the preemptory challenge.

7 THE COURT: Very well.
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1 FEBRUARY 15, 1977 AFTERNOON SESSION:

2 (Counsel for the Government argued in
3 summation, and counsel for the defendant argued
4 in summation, following which counsel for the
5 Government argued in rebuttal, as follows:)

6 MR. PICKERSTEIN: Ladies and gentlemen,
7 as Mr. Bowman explained to you, because the
8 Government has the burden under our system of
9 law, the Government has the opportunity to open
10 the argument to the jury, and to close an
11 argument to the jury.

12 We admit that we have the burden of proof,
13 ladies and gentlemen, and we accept that burden
14 very, very gladly.

15 Look at this case, ladies and gentlemen of
16 the jury. You have heard Mr. Bowman's very
17 eloquent summation. Every one of the Government's
18 witnesses, according to Mr. Bowman, is wrong or
19 is lying. Mondulick and Welch are wrong; Tate
20 is lying. Kegler, the representative of the
21 Unemployment Division is wrong.

22 Robinson gets on the stand, and we heard
23 his testimony. You can judge Willie Robinson.
24 He testified from that witness stand.

25 "Who did you see on the day of the robbery?"

1 "I don't remember. They have initials.

2 "Who did you lay your bets off with?

3 "I don't know; I don't want to tell you.

4 "Where did you get the number every day?

5 "I don't know; I don't want to tell you."

6 Is that the testimony of a man that is being
7 completely candid and honest with you, ladies and
8 gentlemen? I submit it is not.

9 Mr. Bowman makes much of the fact that both
10 Mr. Sulick and Welch are mistaken in their
11 identification of the defendant. Mr. Bowman tells
12 you that the robbery took 82 to 84 seconds, and
13 that they have only had that opportunity to
14 observe him.

15 I'm not very good at determining time spans,
16 ladies and gentlemen of the jury, but let's try a
17 little experiment. The courtroom clock does not
18 have a sweep second hand on it; you will have to
19 rely upon me and the accuracy of my watch.

20 I am going to say "Go," and I am going to time
21 84 seconds, and I will say "Stop."

22 Go, now.

23 (Pause.)

24 Stop.

25 That, ladies and gentlemen, is 84 seconds.

1 I ask you, is that enough time to observe a man's
2 face, to have that face burned forever into your mind?
3 I submit that it is.

4 But, consider that, consider the time that
5 Welch and Mondulick had to observe the bank robbery,
6 with what happened on June 5th. No one told them
7 that Robinson was going to be there. They had no
8 reason to expect that Robinson was going to be
9 there, other than the fact that they knew it was a
10 hearing in connection with this case.

11 He walked off the elevator, and Welch and
12 Mondulick saw him, and both of them simultaneously
13 identified him: that's the man. Well, Mondulick
14 got upset; she gasped, according to Mr. Dorsey, and
15 got upset. Because, that is the man she sees in
16 the bank; there is no question in her mind.

17 Ladies and gentlemen of the jury, Welch and
18 Mondulick aren't wrong. They saw that face. They
19 had ample opportunity to see that face. The bank
20 was well lit; it was a small place. Willie Robinson
21 walked into that bank, stood right across from them,
22 and they saw him, and they -- make no mistake about
23 it, ladies and gentlemen -- they identified him
24 before they had ever testified in any trial. And
25 they stood in the witness stand in this trial, and

1 they both pointed him out: "That's the man that
2 robbed the bank. There is no question in my mind."

3 Both Welch and Mondulick were honest with you,
4 ladies and gentlemen of the jury. They told you
5 that they made mistakes before, and I wouldn't be
6 surprised if there is not one of us who made a
7 mistake before. But they never testified in a trial
8 before; they never made an identification before.
9 And in a matter of this seriousness, a matter of
10 this importance -- and this trial is important,
11 not only to the defendant, not only to counsel for
12 the defendant, but to the Government and to all of
13 us -- and they swore, ladies and gentlemen, they
14 took the same oath as Willie Robinson took, and
15 they swore to you that there was no question in
16 their minds.

17 All right, look at David Tate. We readily
18 concede that David Tate, as I told you earlier, is
19 not a nice fellow. He's a drug addict; been
20 convicted of four felonies, and now a bank robbery.
21 The Government never told David Tate "We want you
22 to identify Robinson so you can get some benefits
23 for yourself." The Government told Tate "We want to
24 know who did the bank robbery with you."

25 And Tate finally came forward and he said it was

1 Robinson. He didn't pick anybody out -- he didn't
2 pick a name out of the hat; he picked the name of
3 the man that he was with on February 18, 1975, the
4 defendant, Willie Robinson.

5 Tate hadn't been released -- I don't know if
6 he will be released. The Government made a deal
7 with Tate, but ladies and gentlemen, if you are
8 concerned that the Government has made a deal with
9 Tate, be concerned with me. I made the deal. It
10 is my responsibility.

11 MR. BOWMAN: I object to that, your Honor.
12 The prosecutor should not inject himself into the
13 closing argument.

14 THE COURT: Neither counsel should inject
15 themselves personally, or make themselves a party.

16 The point is well-taken. The jury will
17 disregard that.

18 MR. PICKERSTEIN: David Tate has not been
19 released from prison. David Tate is still there.
20 Whether he will be released or not is of no concern.
21 The fact is that David Tate did come forward, and
22 David Tate did testify truthfully.

23 The defendant points to Eli Turner. You saw
24 Eli Turner on the stand; you can compare Eli Turner,
25 the best you can, with the bank surveillance photographs.

1 Consider this, ladies and gentlemen of the jury:
2 Eli Turner is related to the defendant Robinson.
3 I believe you heard his testimony, and my
4 recollection is that his lady, or his wife, is the
5 defendant Robinson's wife's sister -- or sister-in-law.

6 What better reason not to point the finger at
7 the defendant Robinson.

8 Ladies and gentlemen, I submit to you that
9 when you examine all the evidence in this case and
10 all of the testimony in this case, you can come to
11 one conclusion. That conclusion is this: that
12 Mondulick and Welch and Tate and Kegler are telling
13 the truth. They were not lying to you.

14 Welch and Mondulick identified Robinson. Tate
15 identified Robinson, and Mr. Kegler, who was only
16 testifying from the records of the Unemployment
17 Commission testified that Burroughs, Joseph
18 Burroughs, the man who was with Willie Robinson --
19 remember, Robinson never told the FBI he was with
20 Burroughs on February 18, 1975 -- Special Agent Smith
21 said, if you recall the testimony, that Robinson said
22 he was with Willie Jackson, not Burroughs.

23 I don't know where Burroughs was on February 18,
24 1975, but he was not at the unemployment office, as
25 the defendant would have you believe.

1 Ladies and gentlemen, I submit that if you
2 examine all of the evidence in this case that one
3 verdict, and one verdict only can you return.
4 That is that the defendant is guilty, as charged
5 in this indictment.

6 Thank you very much.

7 THE COURT: Before proceeding with the Court's
8 charge we will have a short, five minute recess.

9 (Recess.)

10 (In the absence of the jury.)

11 THE COURT: Is there any reason for keeping
12 the alternates, in the event that they stay overnight,
13 or will we excuse them at the termination of the
14 charge?

15 MR. PICKERSTEIN: The Government would have
16 no objection to excusing them, your Honor.

17 MR. BOWMAN: I think they should be excused.

18 THE COURT: Call the jury.

19 (In the presence of the jury.)

20 THE COURT: Ladies and gentlemen of the jury,
21 now that you have heard the evidence and the
22 arguments of counsel, the time has come to instruct
23 you as to the law governing this case.

24 The first observation that the Court will make
25 will be general in nature.

1 Although you, as jurors, are the sole judges
2 of the facts, you are duty bound to follow the law
3 as stated in the instructions of the Court, and to
4 apply the law so given to the facts as you find
5 them, from the evidence which is before you.

6 You are not to single out one instruction of
7 the Court alone as stating the law, but you must
8 consider the instructions as a whole. Neither are
9 you to be concerned with the wisdom of any rule of
10 law. Regardless of any opinion you may have as to
11 what the law ought to be, it would be a violation
12 of your sworn duty to base a verdict upon any other
13 view of the law than that stated in the instructions
14 of the Court.

15 You are further advised that you are not to
16 infer any conclusions merely from questions that
17 may have been asked by the Court, or assume that
18 the Court may hold any opinion on the matters to
19 which the questions related. These are matters
20 solely within your province, to find the facts.

21 And also, I might add, where either counsel
22 on either side has objected to certain questions
23 or comments, as a matter of law, it is only
24 appropriate and possible that each counsel do that
25 in the course of the trial. You are not to conclude

1 that either side, either counsel, is trying to
2 conceal any facts from you. They are simply trying
3 to follow out the rules of law as they apply to
4 the conduct of the trial.

5 Now, the indictment, the original of which you
6 shall have with you in the jury room, is but a
7 formal method of accusing the defendant of a crime.
8 It is not evidence of any kind against the accused
9 in this case, and does not create any presumption
10 nor permit any inference of guilt.

11 The law presumes a defendant to be innocent
12 of crime. Thus, at the moment a defendant begins
13 the trial, he stands before you free from any bias,
14 or prejudice, or burden, arising from his position
15 as the accused. So far as you are concerned, he
16 then was innocent and he continues innocent
17 throughout the trial, and during the deliberations
18 of the jury, and is overcome when, and only when,
19 his guilt is established beyond a reasonable doubt.

20 This presumption also requires that if a piece
21 of evidence offered is capable of two reasonable
22 constructions, one of which is consistent with
23 innocence, it must be given that construction.
24 Whether the burden of proof resting upon the
25 Government is sustained depends not on the number of

1 witnesses nor the quantity of the testimony, but
2 upon the nature and quality of that testimony.

3 In order to convict one accused of crime,
4 the jury must be satisfied beyond a reasonable
5 doubt of the defendant's guilt. A mere preponderance
6 of the evidence is not sufficient. And if a
7 reasonable doubt does exist in the minds of the
8 jury, they must acquit the defendant. If the
9 evidence justifies, in your judgment, the
10 conclusion that the accused is guilty, so as to
11 exclude every other reasonable doubt as to his
12 guilt, then of course you will find him guilty.

13 Now, this term "reasonable doubt" means just
14 what the term implies. By "reasonable doubt" I do
15 not mean to be understood as stating that the
16 defendant must be found guilty beyond all doubt
17 whatever, but beyond a doubt founded in reason, and
18 arising from the evidence.

19 Reasonable doubt is a doubt arising from the
20 evidence, or from a lack of evidence, after
21 consideration of all the evidence in the case. It is
22 not a vague, speculative, imaginary something, but
23 just such as doubt as would cause reasonable men and
24 women to hesitate to act upon it in matters of
25 importance to themselves.

1 Reasonable doubt means such doubt as will leave
2 the juror's mind, after a candid and impartial
3 consideration of all the evidence, so undecided that
4 he or she is unable to say that he has an abiding
5 conviction or assurance of the defendant's guilt.

6 If after you have carefully considered and
7 weighed all of the evidence in this case, in the
8 light of the law as the Court will have given it to
9 you, you have a firm, full and abiding conviction
10 that the defendant is guilty, as charged in the
11 indictment, then this guilt has been established
12 beyond a reasonable doubt. But, if you do not have
13 a full, firm and abiding conviction, guilt has not
14 been established beyond a reasonable doubt, in which
15 case you will then acquit the defendant.

16 In order to convict one accused of crime, all
17 of the elements of that crime must be proven beyond
18 a reasonable doubt. Therefore, unless the jury
19 concludes that all the material elements of said
20 crime have been committed by the defendant, and said
21 elements have been proved beyond a reasonable doubt,
22 the jury must bring in a verdict of not guilty.

23 Now, in the remainder of what I have to say to
24 you in this jury charge, I shall use the word
25 "prove" or "proved" with reference to the burden

1 which rests upon the Government. I shall speak to
2 you of your finding various facts or elements in the
3 case. But, throughout, you will understand when I
4 say the Government has to prove a fact to you, I
5 mean it has to prove to you that fact with this
6 degree of proof I have just defined: that is,
7 beyond a reasonable doubt, even though I may not
8 repeat the exact words.

9 When I say you must find a fact, I mean you
10 must find it proven beyond a reasonable doubt, even
11 though I simply use the word "find."

12 There are two types of evidence from which a
13 jury may properly find a defendant guilty of an
14 offense. One is direct evidence, such as the
15 testimony of an eyewitness. The other is circum-
16 stantial evidence, the proof of a chain of
17 circumstances pointing to the commission of the
18 offense.

19 Now, as a general rule, the law makes no
20 distinction between direct and circumstantial
21 evidence, but simply requires that before convicting
22 a defendant, the jury must be satisfied beyond a
23 reasonable doubt from all the evidence in the case.

24 Now, there are certain terms -- the word
25 "inference."

1 An inference is a deduction or conclusion which
2 reason and common sense lead the jury to draw from
3 facts which have been proved.

4 In arriving at your decision, you, the jury,
5 may draw inferences from those facts which are either
6 admitted -- like the stipulation, you heard counsel
7 stipulate to certain things -- which are either
8 admitted, or those facts which you find to have been
9 proven beyond a reasonable doubt.

10 However, no inference is reliable which is
11 drawn from facts which are themselves uncertain. You,
12 the jury, should not indulge in speculation or
13 conjecture.

14 Now, a presumption is a conclusion which the
15 law requires the jury to make from particular facts,
16 in the absence of convincing evidence to the
17 contrary. A presumption continues in effect until
18 overcome or outweighed by evidence to the contrary.
19 But, unless so outweighed, the jury are bound to find
20 in accordance with the presumption. This defendant
21 is presumed innocent, unless you find beyond a
22 reasonable doubt that he is guilty of the offense or
23 offenses with which he is charged.

24 Now, you will notice in the indictment, which
25 you will have with you in the jury room, that the name

1 of one other person appears thereon as a defendant.
2 But, for the purposes of this trial you will
3 concern yourself only with the charges against the
4 defendant, William Eugene Robinson, also known as
5 Willie Gene Robinson. He is the only person being
6 tried at this time.

7 The indictment against the defendant contains
8 two separate counts. Each count is a separate
9 and distinct cause of action. Each count embodies or
10 contains allegations which allege a separate and
11 distinct claim under the statute.

12 The mere fact that you may find the defendant
13 guilty on one count does not necessarily affect his
14 guilt or innocence on the other count.

15 Now, on Count 1 the indictment charges:

16 "On or about the 18th day of February, 1975,
17 in the District of Connecticut, William Eugene
18 Robinson, also known as Willie Gene Robinson,
19 also known as Ponzo, and David James Tate, by force
20 and violence, and by intimidation, did take from the
21 person and presence of Retta Mondulick, about \$2,034,
22 in money, belonging to and in the care, custody,
23 control, management and possession of the Connecticut
24 National Bank, the deposits of which were then
25 insured by the Federal Deposit Insurance Corporation,

1 in violation of 18 United States Code, Section 2113(a)
2 and 2(a) and 2(b)."

3 Now, Title 18, Section 2113(a) of the United
4 States Code is entitled "Bank Robbery and Incidental
5 Crimes." That portion to which this count applies
6 reads, in part:

7 "Whoever, by force and violence, or by
8 intimidation, takes or attempts to take from the
9 person or presence of another, any property or money
10 or any other thing of value belonging to, or in the
11 care, custody, control, management or possession of
12 any bank" -- shall be guilty of violating the law.

13 Sub-title (g) of this same statute provides:

14 "As used in this section, the term 'bank' means
15 any bank, the deposits of which are insured by the
16 Federal Deposit Insurance Corporation." That is
17 sometimes referred to as the FDIC. You see it
18 advertised as such.

19 Four essential elements are required to be
20 proven in order to establish the offense charged in
21 the first count.

22 First, that force and intimidation was used
23 by the defendant, William Eugene Robinson, in the
24 commission of the robbery;

25 Second, that there was an unlawful taking of

1 money which was in the care, custody, control,
2 management or possession of the bank;

3 Third, that the bank from which the money was
4 taken was, on the day of the robbery, insured by
5 the Federal Deposit Insurance Corporation; and

6 Fourth, that the defendant, William Eugene
7 Robinson, was one of the robbers who participated
8 in the robbery.

9 In respect to the first element, you must first
10 determine what the statute means by the terms
11 "force and violence and by intimidation." It is
12 simply this: any person who shall commit a robbery,
13 and in perpetration thereof shall use any force or
14 violence, or be so armed as to clearly indicate
15 violent intent, shall be in violation of this statute.

16 It is the claim of the Government that there
17 was force and violence used by means of a gun upon
18 the personnel of the bank, and that force and violence
19 was the means by which the money was taken. Or, in
20 other words, that the taking of the money, which was
21 in the care, custody, control, management or
22 possession of the bank, was accomplished by
23 intimidating or putting the victims, the personnel of
24 the bank, in fear or danger to their person.

25 The force necessary to constitute robbery may be

1 constructive, as well as actual, and may consist in
2 the intimidation of the victim, or putting him in fear.
3 Intimidation, in this connection, means force, not
4 actual or direct, exerted upon the person robbed,
5 by operating upon his fear of injury to person,
6 property or character. No matter how slight the
7 cause creating the fear may be, or by what other
8 circumstances the taking may be accomplished, if the
9 transaction is attended with such circumstances of
10 terror, such threatening by word or gesture, as in
11 common experience are likely to create an
12 apprehension of danger, and induce a man to part
13 with his property for the sake of his person, the
14 victim is put in fear.

15 Moreover, actual fear need not be strictly and
16 precisely proved, since the law will presume fear,
17 if there appears to be just grounds for it. And the
18 mere fact that the victim complied with the assailant's
19 demands is itself indicative of fear. But, the
20 putting in fear must be sustained by evidence of
21 acts or conduct or words or circumstances reasonably
22 calculated to effect that result.

23 The second element to be proven is that there
24 was an unlawful taking of the money, which was in the
25 care, custody, control, management or possession of the

1 Connecticut National Bank. In this respect you may
2 consider the testimony of Christain N. Bassick,
3 the bank's Internal Auditor, who testified. He
4 claimed that approximately \$2,034.25 was taken
5 during the robbery.

6 The third element for you to consider is
7 whether the Connecticut National Bank, on the date
8 of entry, was insured by the Federal Deposit
9 Insurance Corporation, as required by law. In this
10 respect you have Government's Exhibit 1, the
11 certificate of the Federal Deposit Insurance Company,
12 and the oral testimony of the bank auditor,
13 Mr. Bassick, to consider.

14 As to the fourth element, you are instructed
15 that the identity of the person who committed the
16 crime is an element of every crime. You must be
17 satisfied beyond a reasonable doubt of the accuracy
18 of the Government's identification of the defendant
19 as being the person who robbed the bank.

20 If facts and circumstances have been introduced
21 into evidence which raise a reasonable doubt as to
22 whether the defendant was the person who committed
23 the crime charged, then you should find the defendant
24 not guilty of the offense.

25 Under Count 1, Count 1, Sub-sections 2(a) and

1 2(b) provide: "aiding and abetting."

2 The Court calls to your attention a separate
3 section of the law, which is applicable to Count 1,
4 in this particular case: Title 18, U.S. Code,
5 Sections 2(a) and 2(b) deal with aiding and abetting
6 in crime. And I quote:

7 "Whoever commits an offense against the United
8 States, or aids, abets, counsels, commands, induces,
9 or procures its commission, is punishable as a
10 principal."

11 And Sub-section 2(b) reads:

12 "Whoever willfully causes an act to be done,
13 which if directly performed by him would be an
14 offense against the United States, is punishable as
15 a principal."

16 Every person who thus willfully participates in
17 the commission of a crime may be found to be guilty
18 of that offense. Participation is willful if done
19 voluntarily and purposely, and with specific intent
20 to do some act which the law forbids; that is to say,
21 with bad purpose, to disobey, or disregard the law.

22 So, in order to aid and abet, as charged here,
23 in order to aid and abet another to commit a crime,
24 it is necessary that the defendant willfully
25 associate himself in some way with the criminal

1 venture, and that he willfully participate in it,
2 as in something he wishes to bring about, and that
3 he willfully seeks by some action of his to make
4 it succeed.

5 Mere knowledge that a crime is being committed,
6 even when coupled with presence at the scene, without
7 more, is not sufficient to find a person guilty of
8 aiding and abetting.

9 Now, under Count 2, which is the second count
10 of the indictment, that reads:

11 "On or about the 18th day of February, 1975,
12 in the District of Connecticut, William Eugene
13 Robinson, and David James Tate, did take and carry
14 away, with intent to steal and purloin, from the
15 Connecticut National Bank, the deposits of which
16 were then insured by the Federal Deposit Insurance
17 Corporation, the sum of about \$2,034, belonging to
18 and in the care, custody, control, management and
19 possession of said bank, in violation of the law."

20 The statute upon which this count is based is
21 Section 2113(b), and is also entitled "Bank Robbery
22 and Incidental Crimes." And it reads, in part:

23 "Whoever takes and carries away, with intent to
24 steal or purloin any property or money exceeding
25 \$100, belonging to, or in the care, custody, control,

1 management or possession of any bank" will be guilty
2 of violating the law.

3 Under Count 2 -- and there are four elements
4 there that are required to be proven by the
5 Government.

6 First, that the taking and carrying away of the
7 money was carried out with the intent to steal;

8 Second, that the amount of money taken exceeded
9 \$100;

10 Third, that the bank in question was, on the
11 day of the robbery, insured by the Federal Deposit
12 Insurance Corporation; and

13 Fourth, that the defendant, William Eugene
14 Robinson, was one of the robbers who participated in
15 the stealing.

16 Now, the first element to be proven is that the
17 taking and carrying away of the money was carried out
18 with the intent to steal. Theft is sometimes called
19 larceny. Theft or larceny is defined as the taking
20 and carrying away of money or personal property,
21 having some value, from and out of the possession of
22 the owner, with intent to defraud or deprive him of
23 it, and to appropriate it to the use of the taker,
24 without excuse or color of right. The words include
25 any taking of money out of the possession of the

1 owner or custodian thereof, against his consent.

2 In every crime there must exist a union, or
3 joint operation of act and intent. The mere
4 presence of the accused at the scene of the crime
5 is not alone sufficient to justify conviction. The
6 burden is always upon the prosecution to prove both
7 act and intent beyond a reasonable doubt.

8 The only way in which the jury can determine
9 what a man's purpose, intention, or knowledge was,
10 at any given time, aside from the man's own
11 testimony, is by determining what the man's
12 conduct was, and what the circumstances were
13 surrounding that conduct, and from those infer what
14 his purpose, intention, or knowledge was.

15 To make such an inference is not only the
16 privilege, but the duty of the jury, provided, of
17 course, the inference drawn is a reasonable inference.

18 In this case, therefore, it will be part of your
19 duty to draw all reasonable inferences from the
20 conduct of the individuals involved in the crime
21 charged, in the light of surrounding circumstances
22 as to what purpose, intention, or knowledge was in
23 this defendant's mind at various times.

24 With regard to the second element, you have
25 heard the testimony of the bank auditor, Mr. Bassick,

1 concerning the amount money that was taken. If you
2 believe that testimony, then you may find the second
3 element proven.

4 It is not necessary that the Government prove
5 that the amount of money taken was the exact amount
6 stated in the indictment, namely, \$2,034; the only
7 proof with respect to the amount that is required
8 to be proven is that the amount taken was in excess
9 of \$100.

10 The third element in this second count is
11 identical to the third element in the First Count,
12 and the same proof is required, pertaining to proof
13 that the bank was insured on the day of the robbery
14 by the FDIC.

15 The fourth element of this count is identical
16 to the fourth element of the First Court, that is,
17 that the identity of the defendant, William Eugene
18 Robinson, as being one of the persons who participated
19 in the stealing. The same proof is required with
20 respect to this count as that which I previously
21 defined to you as required in the proof in the first
22 count.

23 In the second count also the defendant,
24 Robinson, is charged with aiding and abetting. The
25 same proof is required to establish aiding and abetting

1 in the second count, as I have recited to you in the
2 first.

3 Now, one of the most important issues in this
4 case is the identification of the defendant as the
5 perpetrator of this crime. The Government has the
6 burden of providing and proving identity, beyond a
7 reasonable doubt. You, the jury, must be satisfied
8 beyond a reasonable doubt of the accuracy of the
9 identification of the defendant before you may
10 convict him. If you are not convinced beyond a
11 reasonable doubt that the defendant was the person
12 who committed the crime, then of course you must
13 find the defendant not guilty.

14 Identification testimony is an expression of
15 belief or impression by the witness making the
16 observation. Its value depends on the opportunity
17 the witness had to observe the offender at the time
18 of the offense, and to make a reliable identification
19 later.

20 It must be recognized that the use of photographs
21 may sometimes cause witnesses to err in identifying
22 criminals. A witness may have obtained only a
23 brief glimpse of a criminal, or may have seen him
24 under poor conditions, or under great stress. Even
25 if the police follow the most correct photographic

1 identification procedures, and show him the picture
2 of a number of individuals, without indicating
3 whom they suspect, there is some danger that the
4 witness may make an incorrect identification.

5 This danger will be increased if the police
6 display to the witness only the picture of a single
7 individual who generally resembles the person he
8 saw, or if they show him the pictures of several
9 persons, among which the photograph of a single
10 such individual reoccurs, or is in some way
11 emphasized.

12 Regardless of how the initial misidentification
13 comes about, the witness thereafter is apt to retain
14 in his memory the image of the photograph, rather
15 than that of the person actually seen, reducing the
16 trustworthiness of subsequent lineup or courtroom
17 identification.

18 This is not to say that such testimony
19 concerning the use of photographs is to be disregarded
20 by you, but I instruct you to appraise carefully
21 such testimony, balanced by the testimony revealed
22 during the cross examination of each such witness.

23 Now, you, as jurors, are the sole judges of the
24 credibility of the witnesses, and the weight that
25 their testimony deserves.

1 You should carefully scrutinize the testimony
2 given, the circumstances under which each witness
3 has testified, and every matter in evidence which
4 tends to indicate whether the witness is worthy
5 of belief.

6 Consider each witness' intelligence, motive,
7 and state of mind, and demeanor and manner while
8 on the witness stand. Consider also any relation
9 which each witness may bear to either side of the
10 case, and the manner in which each witness might be
11 affected by the verdict, and the extent to which,
12 if at all, each witness is either supported or
13 contradicted by other evidence.

14 Inconsistencies or discrepancies in the
15 testimony of a witness, or between the testimony of
16 different witnesses, may or may not cause the jury
17 to discredit such testimony. Two or more persons
18 witnessing an incident or a transaction may see or
19 hear it differently; and innocent misrecollection,
20 like failure of recollection, is not an uncommon
21 experience in our everyday lives.

22 In weighing the effect of a discrepancy,
23 consider whether it pertains to a matter of
24 importance, or an unimportant detail; whether the
25 discrepancy results from innocent error or from

1 willful falsehood.

2 All evidence of a witness whose self-interest
3 or attitude is shown to be such as might tend to
4 prompt testimony unfavorable to the accused, should
5 be considered with caution and weighed with great
6 care.

7 A witness may be discredited or impeached by
8 contradictory evidence, or by evidence that at other
9 times the witness has made statements which are
10 inconsistent with the witness' present testimony.

11 But, if you believe any witness has been
12 impeached and thus discredited, it is your exclusive
13 province to give the testimony of that witness such
14 credibility, if any, as you may think it deserves.

15 If a witness is shown knowingly to have
16 testified falsely concerning any material matter,
17 you have a right to distrust that witness' testimony
18 in other particulars, and you may reject all the
19 testimony of that witness, or give it such
20 credibility as you may think it deserves.

21 If you find that the Government witness, David
22 James Tate, willfully participated in the commission
23 of the same crime with which the defendant is charged,
24 then Tate was an accomplice in the commission of the
25 crime, and you should weigh and consider his

1 testimony accordingly.

2 An accomplice is one who unites with another
3 person in the commission of a crime, voluntarily,
4 and with a common interest. An accomplice does not
5 become incompetent as a witness because of
6 participation in the crime charged. On the
7 contrary, the testimony of an accomplice alone, if
8 believed by the jury, may be of sufficient weight
9 to sustain a verdict of guilty, even though not
10 corroborated or supported by other evidence, that
11 is, by independent documentary or testimonial
12 evidence, evidence from exhibits, or testimony of
13 other witnesses.

14 To the extent to which there has been
15 independent, supporting evidence, if any, connecting
16 the defendant with the crime charged, is for the
17 jury to determine. And the jury should keep in mind
18 that the unsupported testimony of an accomplice is
19 always to be regarded with caution and weighed with
20 great care.

21 In the last analysis, however, no independent,
22 supporting evidence is absolutely necessary in this
23 regard, but you should not convict the defendant
24 upon the unsupported testimony of an accomplice,
25 unless you believe that unsupported testimony beyond

1 a reasonable doubt.

2 An accomplice is entitled to the same
3 consideration, and must have his or her testimony
4 measured in the same way as that of any other
5 witness, including his interest in the verdict which
6 you are called upon to render.

7 In considering the testimony of James Tate,
8 David James Tate, you will recall there was
9 testimony about his prior criminal felony record.
10 I call your attention to the fact that the testimony
11 of a witness may be discredited or impeached by
12 showing that that witness has been convicted of a
13 felony, that is, of a crime punishable by
14 imprisonment for a term of one year or more.

15 Prior conviction does not render a witness
16 incompetent to testify, but is merely a circumstance
17 which you may consider in determining the credibility
18 of that witness. It is solely within the province
19 of the jury to determine the weight to be given to
20 his prior felony convictions, as impeachment of his
21 credibility.

22 With respect to Mr. Tate, there is another matter
23 which must be commented upon, which you should
24 consider. That relates to his testimony in this
25 case concerning the same Federal bank robbery offense

1 to which he has already plead guilty himself, at
2 the New Haven Seat of Court. He was first sentenced
3 on this charge to serve ten years imprisonment.
4 This sentence was later modified, after he had
5 testified against the defendant, Robinson, in the
6 second trial. You may take into account the
7 motivation of his testimony as given on the witness
8 stand then, and in this trial, and whether or not
9 he has the hope and expectation of receiving further
10 leniency from the Federal Parole Board in the future,
11 as a result of the prosecutor's favorable recommenda-
12 tion.

13 In other words, whether this witness' hopes and
14 expectations of obtaining further consideration and
15 leniency on the offense for which he is presently
16 serving his sentence, has any bearing upon the truth
17 or falsity of his testimony, and the weight to be
18 given to it by you, the jury.

19 Furthermore, I would note the fact that Tate
20 has plead guilty to a crime concerning this same
21 subject matter, the same bank robbery, and that
22 should not be considered by you as evidence against
23 this defendant, Robinson. Robinson's case must be
24 considered separate and apart from any guilty plea
25 which Tate entered in his own case in this regard.

1 When a defendant voluntarily offers an
2 explanation or makes some statement tending to
3 establish his innocence, and such explanation or
4 statement is later shown to be false, the jury may
5 consider whether this circumstantial evidence points
6 to a consciousness of guilt. It is reasonable to
7 infer that an innocent person does not ordinarily
8 find it necessary to invent or fabricate a
9 voluntary explanation or statement tending to
10 establish his innocence.

11 Whether or not evidence as to a defendant's
12 voluntary explanation or statement points to a
13 consciousness of guilt, and the significance, if any,
14 to be attached to any such evidence, are matters for
15 determination by you, the jury.

16 There was testimony here from law enforcement
17 officers, an FBI agent in this case. The testimony
18 of a law enforcement officer is entitled to no special
19 or exclusive sanctity, merely because it comes from
20 a law enforcement officer.

21 A law enforcement officer takes the witness stand,
22 and stands before you, and subjects his testimony
23 to the same examination, and the same tests, that
24 any other witness does. And in the case of such
25 officer you should not believe him merely because he

1 is a law enforcement officer. You should evaluate
2 his testimony as you do that of any other witness.

3 With respect to the defendant, William Eugene
4 Robinson, who testified, you must carefully consider
5 his testimony. An accused person is not
6 obligated to take the witness stand in his own
7 behalf. On the other hand, he has a perfect right
8 to do so, as the defendant has done here.

9 In weighing the testimony he has given, you
10 should apply the same principles by which the
11 testimony of the other witnesses is tested,
12 including the witnesses called by the Government.
13 That necessarily involves a consideration of the
14 interest the defendant has in the case. You will
15 consider the importance to him of the outcome of
16 the trial, and his motive for testifying.

17 An accused person having taken the witness
18 stand, is before you just like any other witness in
19 the case. He is entitled to the same consideration,
20 and may have his testimony measured in the same way
21 as any other witness.

22 Now, evidence has been introduced by the
23 defendant, Robinson, claiming to establish the
24 contention that he was not present at the time when,
25 or the place where he is alleged to have committed

1 the offense or offenses charged in the indictment.

2 If, after consideration of all the evidence in
3 the case you have a reasonable doubt as to whether
4 the defendant was present at the time and place the
5 alleged offenses were committed, then of course you
6 must acquit him.

7 It is the defendant's position that the bank
8 tellers, Mondulick and Welch, are mistaken in their
9 identification of him, and further that David James
10 Tate has given false testimony out of vindictiveness
11 and a hope for early release from prison.

12 The jury will always bear in mind that the
13 law never imposes upon a defendant in a criminal
14 case the burden or duty of calling any witnesses,
15 or producing any evidence. That burden of proving
16 all the essential elements of the crime rests upon
17 the Government.

18 I will also advise you that under your oath,
19 you, as jurors, of course are not allowed to consider
20 or speculate on any possible punishment which might
21 be imposed by the Court upon a convicted defendant
22 to influence your verdict in any way, or in any
23 sense to enter into your deliberations.

24 The duty of imposing sentence in the event of
25 conviction has been vested by the Congress in the

1 Court. And, whatever that sentence is, that should
2 be imposed is not a matter for your consideration.
3 Your function is solely to determine the guilt or
4 innocence of the defendant on the basis of the
5 testimony and the law, as I have instructed you.

6 The verdict must represent the considered
7 judgment of each juror. In order to return a
8 verdict, it is necessary that each juror agrees
9 thereto. Your verdict, in other words, must be
10 unanimous.

11 It is your duty as jurors to consult with one
12 another, and to deliberate with a view to reaching
13 an agreement, if you can do so without violence
14 to individual judgment. Each of you must decide the
15 case for yourself, but do so only after an impartial
16 consideration of the evidence with your fellow jurors.
17 In the course of your deliberations do not hesitate
18 to reexamine your own views, and change your opinion,
19 if convinced it is erroneous. But, do not
20 surrender your honest conviction as to the weight
21 or effect of evidence solely because of the opinion
22 of your fellow jurors, or for the mere purpose of
23 returning a verdict.

24 Now, upon retiring to the jury room you will
25 select one of your number as a foreman, or a

1 foreperson. And that individual will preside over
2 your deliberations, as a kind of chairman of the
3 jury, and be your spokesman in court.

4 After you have retired you will refrain from
5 acting further, beyond electing a foreperson,
6 because either counsel may request the Court to call
7 you back and explain some further point of the law,
8 as not having been either fully explained or
9 properly explained, as they would like to have it.

10 If the Court believes there is merit to their
11 claim, you will then be called back for further
12 instructions.

13 However, when the Clerk and the Bailiff, bring
14 in to you the exhibits that have come into evidence
15 in this case, with a copy of the indictment, you
16 will then know that you may proceed to conclusion
17 with your deliberations.

18 Now, I think at this time we have two alternate
19 jurors. We have had a very healthy jury, so we didn't
20 need an alternate.

21 Mr. Risley and Mr. Bush, the Court thanks you
22 gentlemen for your help and participation here as
23 alternate jurors. It would have been most important
24 if someone became sick, or for some important reason
25 could not continue. And you made it possible to

1 complete this case in such event.

2 So the Court thanks Mr. Risley and Mr. Bush
3 for your cooperation in being here. It is kind of
4 frustrating to have to leave now, just at the point
5 that the decision has to be made. But, maybe some
6 other time you will be back again with us.

7 Mr. Bailiff, will you escort them out, so that
8 when the jurors go into the jury room there will
9 only be twelve, ultimately, to report back to the
10 court?

11 I might add also at five o'clock I will call
12 you out, and if you wish to continue on further
13 you can have your foreman respond to the Court's
14 inquiry, or whether you would rather retire at
15 five o'clock and go home and come back tomorrow
16 morning at ten.

17 I will leave that up to you. But that will be
18 matters that you can discuss among yourselves when
19 I call you in at five o'clock, and you can report at
20 that time.

21 There is no hurry that you should conclude
22 at five o'clock, by the way. You will have all the
23 time in the world. If you wish to stay later, fine.
24 If you would like to come back tomorrow, that will
25 be your choice as to how you wish to handle the matter.

1 The jury may now retire.

2 (In the absence of the jury.)

3 THE COURT: Counsel for the Government, do you
4 have any exceptions to note for the record?

5 MR. PICKERSTEIN: No, the Government is
6 content with the charge, your Honor.

7 THE COURT: Counsel for the defendant, do you
8 have any exceptions to note for the record?

9 MR. BOWMAN: Your Honor, I have two. I take
10 exception to the Court's charge on consciousness
11 of guilt. If the jury finds that the statements
12 made by the defendant were false -- I don't know if
13 this was requested by the Government, but I believe
14 that that particular charge on consciousness of
15 guilt, if they found the statement was false, is
16 unfair.

17 I am aware of what the law says, but I take
18 exception to the use of that charge.

19 The other exception I have, your Honor, is --
20 it could be my failure of memory -- it was the
21 charge on reasonable doubt. I cannot recall if
22 whether your Honor used the "hesitate to act"
23 language or not. I don't recall whether the Court
24 did or not.

25 THE COURT: Do you want me to read it to you?

1 MR. BOWMAN: If the Court did --

2 THE COURT: Taking the sentence out of context --

3 MR. BOWMAN: Certainly.

4 THE COURT: It is not a vague, speculative,
5 imaginary something, but just such a doubt as would
6 cause reasonable men and women to hesitate to act
7 upon it in matters of importance to themselves.

8 MR. BOWMAN: Very well, thank you, your Honor.

9 THE COURT: The Court will let the charge stand
10 as is.

11 Will counsel view the indictment first to see
12 if it is in order, in proper order for the jury?

13 MR. BOWMAN: Acceptable to the defendant.

14 MR. PICKERSTEIN: Acceptable to the Government,
15 your Honor.

16 THE COURT: Will counsel view the exhibits,
17 and see if they are in proper form to be submitted
18 to the jury?

19 MR. PICKERSTEIN: The Government is content
20 with the exhibits, your Honor.

21 MR. BOWMAN: The defendant also, your Honor.

22 THE COURT: Very well. The Clerk will bring the
23 exhibits, with a copy of the indictment, into the
24 jury room, with you, Mr. Bailiff. And report back
25 to the Court -- or the Marshal, report back with the

1 beside you, if you wish, Counselor, or sit at counsel
2 table.

3 MR. BOWMAN: Your Honor, the defendant has
4 moved for a new trial. Basically, our reasons are
5 set forth in the memoranda in support of the motion
6 for a new trial, and the issue on the topic has been
7 dealt with at length in both Judge Newman's district
8 decision, which has been reversed by the Court of
9 Appeals in the case of the United States versus
10 Honorable Jon O. Newman.

11 We believe that a granting of a new trial in
12 this case would have the effect of bringing home
13 to the Government not only that black citizens of
14 this district have the right to equal access to
15 the administration of criminal justice -- that is,
16 the right to sit as jurors -- but also that black
17 citizens accused of crimes in this district must be
18 judged by juries from which we claim a substantial
19 segment of the Connecticut population has been
20 excluded.

21 I know from the Government's response, that
22 Mr. Pickerstein has filed, that the reason that the
23 juror was struck in this particular case was because
24 she sat as a juror in the Victoria West case, in
25 which there was an acquittal. The only comment I wish

1 to state for the record, as to whether or not that
2 is a sufficient reason -- Mr. Pickerstein has
3 volunteered that as a reason, and it is apparently
4 not race based.

5 And whether or not your Honor feels that reason
6 is sufficient for the striking of the only black
7 venireman on the panel, I will leave for your Honor's
8 consideration.

9 In any event, we do move for a new trial on
10 the grounds that the only black venireman available
11 to sit on this jury was struck, preemptorily, by
12 the Government. And this pattern has existed
13 through what we would characterize as an alarming
14 extent over the past two years, as set forth in the
15 affidavit accompanying the motion for a new trial.

16 THE COURT: Does counsel for the Government care
17 to reply, or will you rely upon your memorandum?

18 MR. PICKERSTEIN: We will rely upon our
19 memorandum, your Honor. I think both claims we would
20 present to the Court are set forth in there. One,
21 that the venireman -- venirelady -- sat in a previous
22 acquittal. That was the reason for the Government's
23 challenge.

24 And, secondly, since September of 1976, at the
25 time of Judge Newman's decision in the Robinson case

1 in New Haven, the statistics clearly showed in the
2 Hartford Division of Court that black jurors are
3 being seated, and are not being struck with any
4 alarming pattern, as Mr. Bowman would claim.

5 In fact, I believe according to the statistics
6 that we had done, black jurors are, in fact, being
7 seated at a far greater rate than could be expected
8 from a purely random sample.

9 MR. BOWMAN: The only comment I would state, I
10 have not seen any affidavit from anyone in support
11 of the Government's response, therefore I am not in
12 a position to either challenge or agree with the
13 statistics that Mr. Pickerstein has set forth in
14 his memorandum, which deals from the period from
15 September '76 to March '77.

16 THE COURT: Very well. The Court finds that the
17 exercise of the preemptory challenge against this
18 particular juror was not discrimination.

19 The motion for a new trial is denied.

20 MR. BOWMAN: In respect to the disposition
21 pending before the Court, Willie Robinson, throughout
22 three trials, has always maintained his innocence.

23 THE COURT: In respect to the probation report,
24 are there any corrections first, Counsel?

25 MR. BOWMAN: Well, there is one comment I wish

United States District Court for

ed States of America vs.

WILLIAM EUGENE ROBINSON a/k/a
Willie Gene Robinson a/k/a Ponzio

DISTRICT OF CONNECTICUT

FENDANT

DOCKET NO. ➤

Criminal N-75-20

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (6/74)

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH DAY YEAR
March 21, 1977

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Andrew Bowman, Esq.

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,

☐ NOLO CONTENDERE

☒ NOT GUILTY

There being a finding of verdict of

☐ NOT GUILTY. Defendant is discharged

☒ GUILTY, by the jury.

FINDING &
JUDGMENT

Defendant has been convicted as charged of the offense(s) of violation of Title 18, United States Code, Sections 2113(a), 2(a) and 2(b) (bank robbery by force, violence and intimidation) as charged in count #1; and violation of Title 18, United States Code, Sections 2113(b), 2(a) and 2(b) (bank robbery) as charged in count #2.

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of **fifteen (15) years on count #1; imposition of sentence suspended on count #2.**

SENTENCE
OR
PROBATION
ORDER

SPECIAL
CONDITIONS
OF
PROBATION

ADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT
RECOMMEN-
DATION

The court orders commitment to the custody of the Attorney General and recommends,

BEST COPY AVAILABLE

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☒ U.S. District Judge

☐ U.S. Magistrate

T. Emmet Clarke, Chief Judge

Date

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3/22/77

CERTIFIED AS A TRUE COPY ON

THIS DATE

3/22/77

() CLERK

☒ DEPUTY

UNITED STATES DISTRICT COURT

FILED

MAR 21 2 56 PM '77

Docket Number

UNITED STATES OF AMERICA

N-75 U.S. DISTRICT COURT
NEW HAVEN, CONN.

-VS-

Judge (District Court Judge)

WILLIAM EUGENE ROBINSON

NOTICE OF APPEAL

Notice is hereby given that the defendant, William E. Robinson appeals to
the United States Court of Appeals for the Second Circuit from the ☐ Judgment ☐ Order ☒ other
(specify) OF CONVICTION entered in this action on March 2, 1977 (Date).

Date March 21, 1977
To:

Address

Andrew B. Bowman
Counsel for Appellant
Andrew B. Bowman
Federal Public Defender
770 Chapel Street
New Haven, Connecticut 06510

Phone Number

(FTS) 8-643-8148

ADD ADDITIONAL PAGE IF NECESSARY

(TO BE COMPLETED BY ATTORNEY)

TRANSCRIPT INFORMATION - FORM B

QUESTIONNAIRE

TRANSCRIPT ORDER

DESCRIPTION OF PROCEEDINGS
FOR WHICH TRANSCRIPT IS
REQUIRED (INCLUDE DATE).

- ☒ I am ordering a transcript
☐ I am not ordering a transcript
Reason:
☐ Daily copy is available
☐ U.S. Attorney has placed order
☐ Other. Attach explanation

- Prepare transcript of
☐ Pre-trial proceedings
☐ Trial
☒ Sentence Feb 9, 10, 15, 77
☒ Post-trial proceedings

December 9, 1976 (JUDGE LAMOND)
March 21, 1977
Already transcribed
See transcript Motion for New Trial

The ATTORNEY certifies that he will make satisfactory arrangements with the court reporter for payment of the cost of the transcript. (FRAP 10(b)) Method of payment ☐ Funds ☐ CJA Form 21

ATTORNEY'S signature

DATE

COURT REPORTER ACKNOWLEDGEMENT

To be completed by Court Reporter and
forwarded to Court of Appeals.

Date order received

Estimated completion date

Estimated number
of pages.

3/24/77

APRIL 30, 1977

600

Date

Signature

Michael A. Aceto
(Court Reporter)

BEST COPY AVAILABLE

COPY FOR DEFENDANT

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